

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IRON WORKERS LOCAL
25 PENSION FUND, et al.,

Plaintiffs,

v.

MUNICIPAL and INDUSTRIAL
STORAGE, INC., et al.,

Defendants,

and

CHEMICAL BANK, a Michigan
Banking Corporation,

Intervenor Defendant.

Case No. 10-cv-12502

Paul D. Borman
United States District Judge

Mona K. Majzoub
United States Magistrate Judge

ORDER (1) ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION (DKT. NO. 78);
(2) FURTHER DIRECTING THE GARNISHEES (AND PLAINTIFFS TO THE EXTENT
THEY HAVE RECEIVED GARNISHED FUNDS) TO REMIT FUNDS TO THE CLERK OF
THE COURT TO BE HELD IN AN INTEREST-BEARING ESCROW ACCOUNT; and
(3) ORDERING THE PARTIES TO SUBMIT BRIEFS ON THE ISSUE OF PRIORITY OF
INTEREST IN THE GARNISHED FUNDS

Before the Court is Magistrate Judge Mona K. Majzoub's October 7, 2011 Report and Recommendation Granting Intervenor Chemical Bank's Motion for Alternative Relief. (Dkt. No. 78.) Having reviewed the Report and Recommendation, and there being no timely objections from either party under 28 U.S.C. § 636(b)(1) and E.D. Mich L. R. 72.1(d), the Court ADOPTS the

Magistrate Judge's Report and Recommendation, GRANTS the alternative relief sought by Chemical Bank (Dkt. No. 66) and further:

- (1) Directs the following Garnishees, to whom writs of garnishment have been issued, to remit Defendant Municipal Industrial Storage, Inc.'s ("MIS") interest in the monies and assets they hold for MIS's benefit to the Clerk of this Court for deposit into an interest-bearing account: McCarthy & Smith (Writ Issued Dkt. No. 54); Devere Construction Company, Inc. (Writ Issued Dkt. No. 55); Adams Building Contractors (Writ Issued Dkt. No. 56); Post Foods, LLC (Writ Issued Dkt. No. 57); Skanska USA Building (Writ Issued Dkt. No. 58); FHC Mechanical Contractors (Writ Issued Dkt. No. 59); O'Harrow Construction (Writ Issued Dkt. No. 60); Township of Leoni (Writ Issued Dkt. No. 63); and Union Township (Writ Issued Dkt. No. 64);
- (2) Directs Plaintiffs, to the extent they are in receipt of garnished funds, to remit any amounts received under the Writs of Garnishment to the Clerk of the Court to be held in escrow pending resolution of the priority dispute between Chemical Bank and Plaintiffs;
- (3) Directs the parties to submit to the Clerk of the Court a proposed Order directing the Clerk to deposit funds in an interest-bearing account, including in the proposed Order: (a) the amount to be invested; and (b) language which directs the Clerk to deduct from the account any fee authorized by the Judicial Conference of the United States. *See* E.D. Mich. L.R. 67.1; and
- (4) Orders Plaintiffs and the Chemical Bank to submit briefs, on or before December 23,

2011, not to exceed 15 pages in length, addressing the issue of priority of interest in the garnished funds. Each party may file a responsive brief, not to exceed 10 pages, on or before January 13, 2011.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Paul D. Borman", written over a horizontal line.

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

11-21-11